



DEPARTMENT OF PERSONNEL

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MEMO PERD #03/97
March 7, 1997

**PERSONNEL COMMISSION MEETING
MINUTES**

January 10, 1997

The agenda for this meeting was mailed to groups and individuals as requested.

I. CALL TO ORDER

The Personnel Commission was called to order at 10:08 a.m., January 10, 1997, at the Sawyer Building, 555 East Washington Avenue, Las Vegas. Members present: Ted Manos, Claudette Enus, Teo Gamboa and James Skaggs. Member absent: Victoria Riley. Also present were Sharon Murphy and Freeman Johnson, representing the State Department of Personnel, and James Spencer, representing the Attorney General's office.

Chairman Manos welcomed James Skaggs as a new Personnel Commissioner and Sharon Murphy as the new Director of the Department of Personnel.

II. ADOPTION OF AGENDA

Freeman Johnson, Department of Personnel, informed the Commission that the appeal of the Auditor III, Department of Business & Industry, Unclaimed Property, had been withdrawn. Chairman Manos asked for a motion to adopt the agenda. Commissioner Skaggs' motion to approve the agenda with the change was seconded by Commissioner Enus and unanimously approved.

III. MINUTES OF PREVIOUS MEETING

The minutes were adopted by acclamation, rather than by a vote.

IV. POSITIONS SUBJECT TO PRE-EMPLOYMENT SCREENING OF
CONTROLLED SUBSTANCES

The Nevada Highway Patrol requested the positions of Program Assistant II, Class Code 2.219, utilized as Evidence Custodians by the Highway Patrol Division and the Division of Investigations be included in those classes requiring pre-employment drug testing.

Commissioner Enus asked if there was anyone who would like to speak to the issue prior to the Commission entertaining a motion. No comments were forthcoming and Commissioner Enus moved for approval. Commissioner Gamboa seconded the motion and it was unanimously approved.

V. CLASSIFICATION APPEALS

A. DEPARTMENT OF PRISONS
CORRECTIONAL LIEUTENANTS

Chairman Manos asked that in future appeals, the names of the appellants be placed on the cover and first page of the appeal packets and on the agenda.

Dennis Kifer, State of Nevada Employees Association, representing only those appellants who are members of his organization, presented the following: as the class of Captain did not seem appropriate, the appellants are asking for a new classification. There are duties assigned to these positions which are not contained in the current class specification for Correctional Lieutenant. This includes budget management and implementation, vendor contracts, implementation of POST orders, and overall decision-making authority, which were added since the last occupational group study. The camp Lieutenants have a great amount of autonomy due to the geographical separation, which is a factor not reflected in the class specifications. The appellants did not have updated work performance standards at the time the positions were studied and, therefore, some of the changes were not documented.

In his presentation, Lieutenant Mark Andrews from Humboldt Conservation Camp indicated while the desk audit concluded there were no new duties since the occupational group study, there are at least four duties which have been added. There are nine camp managers in the State and their duties are unique. Though the Department of Personnel viewed his position the same as Correctional Lieutenant positions in large institutions with regards to custody matters, the administrative duties separate the camp managers from others in the same class. Similar administrative duties are performed in other agencies by employees in higher grades.

Lieutenant Andrews indicated he makes the final hiring recommendations to the warden, is involved in discipline and promotional issues and is responsible for formulating his budget of approximately \$800,000 per year. There are currently 152 minimum-custody inmates at his facility and the isolation of the camps contributes to the higher level of responsibility. When there is an incident, it is not possible to lock an inmate in a cell; therefore, he must handle the problem in a different manner. He supervises a Sergeant, a caseworker, a Senior Correctional Officer and eight Correctional Officers.

He has been a camp manager for almost seven years and a Correctional Officer for almost fifteen years. He has never seen a yard Lieutenant transfer to a camp as a Lieutenant; however, his predecessor transferred to the Northern Nevada Correctional Center as a Correctional Lieutenant.

Chairman Manos expressed his concern about the ability to transfer between camps and other institutions if the Commission changed the class code for the camp managers.

During the introduction of Lieutenant Michael Budge, it was pointed out he had been an acting Correctional Captain and could compare the differences between the duties of a camp Lieutenant and a Correctional Captain. Lieutenant Budge explained some time ago the department decided to use the Correctional Captain as a training position; thus, he participated in a six month training program at Nevada Women's Correctional Center. As a Captain, he was in charge of investigating narcotics, maintaining the security, sitting on committees and supervising all three shifts. As an institutional Lieutenant he was first watch commander and supervised approximately 40 staff members and 1,500 inmates. In the absence of the warden, he was in command of the institution. When he was at the Nevada State Prison, there were five Correctional Lieutenants covering the three shifts, vacation relief and regular day-off relief. At Northern Nevada Correctional Center, there are seven Correctional Lieutenants because they have an intake center. Additionally, as a yard Lieutenant, he did not have any responsibility to hire staff, although he would sit on the interview committee for Correctional Officer Trainees. The camp Lieutenants have the same custodial responsibility as yard Lieutenants, but the camp Lieutenants have much greater administrative duties accounting for approximately 60% of their time. He is responsible for dissemination of OSSA regulations, while the yard Lieutenants receive their instruction from the associate warden.

In making his presentation, Ron Foster, Personnel Analyst, Department of Personnel, made the following points: He and Steve Yuen, Personnel Analyst, Department of Personnel, conducted the study of the ten Correctional Lieutenants who are in charge of the minimum-security rural conservation camps. The appeal is for seven of the positions. When they

compared the duties with those listed on the position description questionnaires submitted in 1989 for the occupational group study, it was apparent no new duties or responsibilities had been added. Desk audits were conducted and all the incumbents interviewed agreed no new duties or responsibilities had been assigned since the last occupational group study. After the desk audits, it was clear the nature and complexity of the administrative duties performed by the incumbents were comparable to duties routinely performed in State service by a Management Analyst I, grade 33, and a Management Analyst II, at grade 35, with many duties aligning more closely with positions in the grade 29 through 34 range. The administrative duties existing at a conservation camp were taken into account during the occupational group study and were addressed as one of the reasons there is a three grade differential above Correctional Sergeants. An institutional Lieutenant has approximately ten times the number of inmates as a camp manager. When the administrative duties of a camp manager are combined with the custodial duties, the position equals that of an institutional Lieutenant.

Bob Bayer, Director, Department of Prisons, added: Correctional Captains supervise inmates at maximum or medium custody level; correctional camp inmates are at the minimum level. He indicated the higher the custody level, the more difficult it is to manage the inmates. The Captain is also responsible for large armories. There is an Administrator of the Day on duty after hours who is responsible for handling incidents. Camps located next to a higher-level institution fall under the authority of the warden of that institution, not the warden of camps. When a camp is located close to a higher-level institution, that institution can provide lock-up capability, while a camp in a rural location utilizes the county jail for lock-up. The duties of an institutional Lieutenant and a camp Lieutenant are different but equal in responsibility and complexity; therefore, the camp Lieutenant position is not comparable to a Captain. He wished to retain the ability to transfer Lieutenants between institutions and camps.

Lieutenant Andrews reiterated a rural camp necessitates much more autonomous action by the camp manager. While he would notify the Administrator of the Day of an incident, it was his responsibility to make decisions. An institutional Lieutenant has much more staff on which to call for assistance. He must rely on the Lovelock Correctional Center seventy miles away or the local sheriff. He stated there were significant changes since the occupational group study and showed several memoranda which added duties to the camp manager position. In addition, the nomination of meritorious credits for inmates, inmate grievances, inmate restitution for damage of State property, and posting of inmate checks and money orders would be handled by a grade 39 at a large facility.

Commissioner Enus pointed out during the occupational group study, careful deliberation had been given to the administrative duties of the camp Lieutenant and the new duties mentioned by Lieutenant Andrews would fall into this category. Therefore, the case was not made that there has been significant change. On that basis, Commissioner Enus moved to deny the appeal. Commissioner Gamboa seconded the motion and it was unanimously approved.

B. DEPARTMENT OF BUSINESS & INDUSTRY
AUDITOR III - WITHDRAWN

C. DEPARTMENT OF TRANSPORTATION
ADMINISTRATIVE SERVICES OFFICER III

In his presentation, Gerald Colquhoun, Administrative Services Officer III, provided the following information: The Department of Transportation's budget now exceeds \$400,000,000 and the FY98 budget exceeds \$450,000,000, which represents additional duties, responsibilities, and complexities. Budget control, monitoring, and analysis are not conducted at any of the department's other locations, but is done in Carson City at the Financial Management Division. If a request for federal funds is incomplete or inaccurate, it is not returned to be corrected, but is denied. His office now handles the data processing scheduling, system programming and development which had been the responsibility of the Data Processing Division. There has been a growth in federal aid dollars from \$83,000,000 in 1990 to \$141,000,000 in 1995, and funding categories have grown from 21 to 34. The highway fund is very difficult to manage and requires a great deal of knowledge and ability. Errors concerning the bond program could undermine the public's confidence in the State's ability to manage money. There have been increases in the federal aid program, the budget, and cash flow responsibilities, resulting in significant change. He appealed the occupational group study classification allocation to the Personnel Commission because he felt Ernst & Young did not consider the cash flow responsibility and consequence of error when making their determination. He believes his position's level of responsibility far exceeds the positions with which his was compared.

In his presentation, Henry Melendres, Personnel Analyst, Department of Personnel, stated the significant change submitted by the appellant was that of cash flow duties. However, the occupational group study appeal of Mr. Colquhoun included reference to duties involving cash management, which accounted for 30% of his time. Mr. Colquhoun now claims cash management is a new duty, also accounting for 30% of his time. Further, classes such as the Administrative Services Officer series, Budget Analyst series, Accountant series, and Management Analyst series all perform some amount of fiscal management. A Chief Accountant, grade 41, for the Department of Transportation also accounts for the same money. The Department of Transportation has two Administrative Services Officers

who manage a wide variety of administrative services. Mr. Melendres presented a chart comparing the same fiscal functions of several different positions related to this study. Although there have been some additional State and federal legislative requirements, these constitute normal changes in the job. He reviewed the position description questionnaires prepared for the occupational group study and found the Administrative Services Officer IV positions assumed much greater responsibilities and duties than Mr. Colquhoun handles.

Mr. Colquhoun disagreed with the comparisons made by Mr. Melendres.

Commissioner Enus moved to deny the appeal. Chairman Manos stated the Personnel Commission took into account the potential for growth in duties in this particular position and determined the position was properly allocated to the class of Administrative Services Officer III in the occupational group study. He did not see any significant change in the position since that time. Commissioner Gamboa seconded the motion to deny the appeal and it was unanimously upheld.

D. DEPARTMENT OF PRISONS
CORRECTIONAL OFFICER

When asked by Chairman Manos why he had not gone forth with this appeal in June, 1996, Bennett Lewis stated the Department of Personnel had notified the State of Nevada Employees Association of the appeal date, but had not notified him, erroneously believing that he was to be represented by the association. He obtained the appeal packet only a few days before the meeting and did not feel he had adequate time to review it and prepare for the meeting.

Freeman Johnson, Chief, Department of Personnel, explained the June appeal was granted when the appellants prevailed in their argument that they had assumed a preponderance of duties at the Senior Correctional Officer level. Commissioner Enus recalled the Commissioners had received a letter indicating there were eighteen positions approved with four filled. When asked by Commissioner Manos why the June 1996 appeals were granted, Mr. Yuen stated the State of Nevada Employees Association argued there were not enough Senior Correctional Officer positions in the facility.

Mr. Lewis indicated there were two other Correctional Officers present who would like to be included in the appeal being heard at this meeting. Chairman Manos asked why the Commission should hear the additional officers' appeal, whether Commissioners had anything in their appeal packets concerning these positions and if Mr. Yuen had asked them to attend the meeting.

Greg Febbo, Regional Manager, Department of Personnel, Las Vegas, explained because the NPD-19's submitted by the two officers are similar to the one submitted by Mr. Lewis, the hearing could address the same issues. He left it up to the individuals to ask to come before this meeting of the Personnel Commission or wait for a future meeting.

When asked by Chairman Manos if they wished to go forward with their appeals with the understanding that the decision would be final, Kenneth Collette and George Coffin both indicated they wished to be included in the appeal before the Commission. In response to a question by Chairman Manos, the Commissioners stated they did not have any objection to hearing the three appeals together.

In response to Chairman Manos' question of how long the June appellants had been Correctional Officers, it was determined that Officer Garibaldi had been with the Department of Prisons about three years prior to the hearing; Officer Lake was hired in 1983; Officer Edwards was hired in 1985; and Officer Brown was rehired in 1990.

In his presentation, Mr. Lewis stated Southern Desert Correctional Center is the largest correctional institution in the State with the second highest custody level designation and the lowest ratio of Correctional Officers to Senior Correctional Officers in the system. He and the other appellants have performed Senior Correctional Officer duties due to the understaffing. He interviewed more than two months ago for a Senior Correctional Officer slot, but as yet the position remains unfilled.

Mr. Collette added after he submitted his NPD-19, he was transferred out of the position where he had been working at the higher level into a position that functions at the Correctional Officer level. The denial letter he received from Steve Yuen stated he was currently working within his class and did not train Correctional Officer Trainees. Mr. Collette stated his last performance evaluation indicated that he does train. Since he received the denial letter, he has been moved back to a position where he functions as a lead officer.

In response to Commissioner Enus' questions, Mr. Coffin explained once he submitted an NPD-19, he too was given a new assignment with lower-level duties. In addition, he has been in the position three years, working as a relief officer for Senior Correctional Officers, but many times did not supervise, due to the problem of understaffing. When asked by Commissioner Enus what other duties would qualify him for a Senior Correctional Officer, Mr. Coffin stated the Senior Correctional Officer is responsible for the porters performing their duties, ordering and passing out supplies, doing the counts of the units, distributing mail, distributing medication, and guiding and evaluating Correctional Officers.

Commissioner Enus indicated the Commission would look at whether the appellants were working in a training capacity on a regular, sustained basis, or only familiarizing a new hire with the routine. Mr. Collette remarked there is no formal training given new hires for one to five months, due to the high turnover, and the appellants are working with new people on a steady basis. The majority of new hires are trainees. Commissioner Enus asked Mr. Collette to read the portion of his annual appraisal dealing with training.

In his presentation, Steve Yuen, provided the following information: the NPD-19's were not signed by the Department of Prisons' management at the time the audits were done; therefore, he could not ascertain if the appointing authority agreed with the duties stated. Various subjects have been introduced which have nothing to do with the classification issue, such as seniority, the number of positions in an institution, the turnover rate, and the personal qualifications of the appellants. Classification centers on duties and responsibilities performed and NAC 284.126 stipulates that reclassification only recognizes duties and responsibilities performed from the date of receipt of the NPD-19. Therefore, duties performed prior to its receipt can not be considered. Management has the prerogative to assign duties in order to suit their needs and there is a provision for compensating individuals working temporarily out of class. The appellants were not performing higher-level duties when he did the desk audits.

When asked by Commissioner Enus to read the regulation, Mr. Yuen stated he did not have a copy of the regulation with him, but he was conveying the spirit of the regulation. He added Mr. Coffin spends two days at the "K" gate where he controls the traffic between the administration building and the yard. He works alone and does not perform in a lead capacity over less experienced officers. The remaining three days the appellant works as a relief wherever he is needed, not necessarily in a Senior Correctional Officer capacity.

At the time of the desk audit, the complexity of Kenneth Collette's position was limited by the presence of guidelines as to how he was to perform in that post. The appellant may work with less experienced officers, but the nature of the position and clear cut guidelines enable a Correctional Officer to master the job within two weeks. He is not required to provide lead-worker guidance and coaching. Today Mr. Collette works under a Senior Correctional Officer.

Since March 1995, when Ben Lewis turned in his NPD-19, he has been assigned to different towers. Correctional Officers work alone in a tower and have no opportunity to perform lead worker guidance or coaching.

Reclassification focuses on whether the out-of-class duties are performed continually, regularly, and for the majority of the time. If the out-of-class

duties are not performed on a continuous basis after the NPD-19 is submitted, the reclassification request must be denied. Commissioner Gamboa stated the request can be sabotaged by moving the employee to a position where he no longer performs duties above his class.

Jim Spencer, Senior Deputy Attorney General, stated the regulation indicates the effective date of a reclassification is the date the NPD-19 is received by the Department of Personnel or the agency personnel officer. It is within the agency's discretion to remove duties if it finds an employee is working out of class. It is not considered punitive for the agency to make such a management decision.

Commissioner Gamboa stated when employees file NPD-19's and are then assigned different duties, it makes it difficult to consider the requests for reclassification. Mr. Spencer responded that if no changes were allowed once an NPD-19 is filed, the agency would not have discretion to adjust those duties in the future. Such a policy would be inappropriate as the executive agency heads have the authority to the assign duties as they see fit.

Mr. Bayer explained every Correctional Officer has the responsibility to train as part of his job duties, but are not considered training officers. He is concerned the normal promotional process is being circumvented by individual employees submitting NPD-19's. In response to Commissioner Gamboa's comment concerning change in assignment, once an employee files an NPD-19, Mr. Bayer stated a Correctional Officer rotates through different positions in order to gain a wide range of experience. A Senior Correctional Officer would not be rotated as he has already been exposed to the full range of duties. Since every Correctional Officer is rotated through Senior Correctional Officer duties, every Correctional Officer could submit an NPD-19. Additional Senior Correctional Officer positions were requested to eliminate the understaffing. In the budget process, the department must identify a position by number in order to put it forth in the budget, regardless of who is currently in the position. Many employees could pass through a particular position from the time the budget is first submitted until the time it is approved and implemented. He believes it is unfair to reclassify an employee solely because they happen to be in a certain position at the time the upgrade is approved.

Commissioner Enus stated if the department's movement of employees is simply managing the Prison system there is nothing wrong. There is an obligation to determine if the system is being used correctly, and asked Mr. Bayer to ensure there is no connection between the filing of NPD-19's and reassignments. Mr. Bayer agreed he would look into the situation and report back to the Commission as he was adamantly opposed to using shift reassignments as a form of retaliation.

When asked by Chairman Manos if there were a dozen or more officers who have not submitted NPD-19's in the same situation as the appellants, Officer Coffin answered yes. Other officers filed NPD-19's and were upgraded and the appellants deserve the same, according to Officer Coffin, who then commented the promotional system is unfair when the officer scoring highest is not promoted.

Officer Collette added the Correctional Officer and Senior Correctional Officer do the same job.

Associate Warden O'Halloran indicated he follows the promotional rules and there is only one of the original eighteen positions still vacant.

Commissioner Enus made a motion to deny the appeal because she did not hear a consistent listing of duties and responsibilities on a daily basis at the Senior Correctional Officer level. The motion was seconded by Commissioner Skaggs. The vote was three ayes and one nay by Commissioner Gamboa and the motion was upheld.

VI. UNCONTESTED CLASSIFICATION ACTION REPORT

No Vote Required

VII. SELECTIVE CERTIFICATION

No Vote Required

VIII. REQUEST FOR LEAVE WITHOUT PAY

The University and Community College System requested an extension of leave without pay for Officer Scott Larson, University Police Department, through May 15, 1997. Commissioner Skaggs moved to approved the extension of leave without pay through August 15, 1997, with the provision that it be terminated if Officer Larson returned sooner than August 15, 1997. Commissioner Enus seconded the motion and it was unanimously approved.

IX. SPECIAL REPORTS

After Mr. Johnson provided the Commission with the guidelines developed for use by State agencies regarding exceptions to the nepotism policy, Commissioner Enus asked if the Department of Personnel had reviewed the guidelines with the employee associations. Mr. Johnson stated the guidelines had been sent to the associations for review and there has been no comment, but the associations' concerns had been addressed in the guidelines. Chairman Manos asked Dennis Kifer, State of Nevada Employees Association, if his association had reviewed the guidelines. He stated he was not aware his association had received them, but would bring any comments to the attention of the Department of Personnel.

Chairman Manos asked the Department of Personnel to communicate that anyone coming before the Personnel Commission be appropriately attired.

X. COMMENTS BY THE GENERAL PUBLIC

There were no comments forthcoming.

XI. SELECT DATE FOR NEXT MEETING

The date of April 25, 1997 was selected for the next Personnel Commission meeting in Carson City.

XIII. ADJOURNMENT

The meeting was adjourned at 1:40 p.m.

Copies of the agenda and the tapes are available at the Department of Personnel, 209 E. Musser Street, Carson City, Nevada 89710 upon request.

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